

**A RESOLUTION OF THE
CITY OF SAN ANTONIO, TEXAS
EMPOWERMENT ZONE DEVELOPMENT CORPORATION**

EZDC-2005-27

AUTHORIZING THE ISSUANCE OF UP TO \$35,000,000 IN PRINCIPAL AMOUNT OF CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION CONTRACT REVENUE EMPOWERMENT ZONE BONDS (DRURY SOUTHWEST HOTEL PROJECT), SERIES 2005; AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT, AN INDENTURE OF TRUST, A TAX AGREEMENT, AND AN UNDERWRITING AGREEMENT; APPROVING THE FORM OF AN OFFICIAL STATEMENT; AND APPROVING OTHER MATTERS IN CONNECTION THEREWITH

* * * * *

***WHEREAS**, the Issuer is a nonprofit local government corporation created and existing under the laws of the State of Texas, including particularly Subchapter D of Chapter 431, Texas Transportation Code (the "Act"), to act on behalf of the City of San Antonio, Texas (the "City") for the purpose of "aiding and acting on behalf of the City to accomplish certain governmental purposes of the City, to wit: the administration of various federal tax incentives relating to the Empowerment Zone designated within the City, including but not limited to the issuance of empowerment zone facility bonds on behalf of qualified businesses within the Empowerment Zone, at the request of the City Council of the City"; and*

***WHEREAS**, pursuant to law, particularly Section 99 of the Charter of the City, the City is authorized to issue revenue bonds for certain specific purposes enumerated therein and for "any other lawful public purpose, provided such bonds shall never be a debt of the City and shall be a charge upon and payable solely from the designated sources, properties or interest acquired and the income therefrom"; and*

***WHEREAS**, state law recognizes that economic development by municipalities is a "public purpose" as evidenced by, among other laws, the provisions of (i) Article III, Section 52-a of the Texas Constitution which provides that the "development and diversification of the economy of the state, [and] the elimination of unemployment or underemployment in the state" is a "public purpose", and (ii) Chapter 380, Texas Local Government Code, which was enacted by the Texas Legislature in 1987 to implement the authority granted in Article III, Section 52-a of the Texas Constitution by authorizing municipalities to "establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality."*

WHEREAS, a portion of the City has been designated pursuant to Section 1391(h) of the Internal Revenue Code of 1986, as amended (the "Code") by the U.S. Department of Housing and Urban Development as a *Round III Urban Empowerment Zone* (the "Empowerment Zone"), which, among other areas, includes the downtown area of the City; and

WHEREAS, among other federal tax incentives available to provide a catalyst for private investment and promote economic development within the Empowerment Zone, the City is authorized to issue up to \$230,000,000 in principal amount of bonds (the "City's Empowerment Zone Bond Capacity") and loan the proceeds thereof to a private entity to provide an "enterprise zone facility" which consists of "qualified zone property" the principal user of which is an "enterprise zone business" (as such terms are defined in Sections 1394, 1397D and 1397C, respectively, of the Code) in the Empowerment Zone, the interest on which is excludable from federal income taxation ("Empowerment Zone Bonds"); and

WHEREAS, on April 15, 2004, pursuant to Ordinance No. 99089, the City Council of the City created the City of San Antonio Empowerment Zone Governance Board (the "EZ Governance Board") to advise and assist the City Council and the City staff in leveraging the Empowerment Zone incentive tools to achieve maximum economic benefits, including evaluating and ranking projects eligible for financing with Empowerment Zone Bonds and the prioritizing and allocation of bonding capacity among eligible projects; and

WHEREAS, **ALAMO NATIONAL BUILDING DEVELOPMENT PARTNERSHIP, L.P.** (the "Ground Lessor"), a Texas limited partnership composed of **ALAMO NATIONAL MANAGEMENT, LLC**, a Texas limited liability corporation, as the general partner, and **ALAMO AZTEC DEVELOPMENT PARTNERSHIP, L.L.P.**, a Texas limited liability partnership, as a limited partner, has acquired the Alamo National Bank Building and related parking facilities (located on the west side of St. Mary's Street between Commerce Street and Market Street in the City's downtown area), and desires to renovate and redevelop such property into a new hotel which, upon completion, will include approximately 310 guest rooms and related hotel amenities and parking facilities and improvements along the Riverwalk (the "Project"); and

WHEREAS, the Ground Lessor will lease the site on which the Project will be located to **ALAMO NATIONAL BUILDING DEVELOPMENT, LP**, a Missouri limited partnership (the "Borrower") composed of **DSW ALAMO NATIONAL BUILDING MANAGEMENT, LP**, a Missouri limited partnership, as the general partner, and **ALAMO NATIONAL BUILDING TENANT, LP**, as a limited partner, pursuant to a ground lease between the Ground Lessor and the Borrower, and the Borrower will own, renovate and redevelop the Project; and

WHEREAS, upon completion the Project will be leased by the Borrower to **ALAMO NATIONAL BUILDING TENANT, LP** (the "Master Tenant"), a Missouri limited partnership composed of **DSW ALAMO NATIONAL BUILDING MANAGEMENT, LP**, a Missouri limited partnership, as the general partner, and **DSW ALAMO INVESTMENTS, LLC**, as a limited partner; and

WHEREAS, the Project will be managed and operated by **ALAMO NATIONAL BUILDING MANAGEMENT, LP**, a Missouri limited partnership (the "Operator") composed of **DSW ALAMO MANAGEMENT, LLC**, a Missouri limited liability corporation as the general partner, and **DSW ALAMO INVESTMENTS, LLC**, a Missouri limited liability company, as a limited partner, pursuant to a management agreement to be entered into between the Borrower and the Operator; and

WHEREAS, the Ground Lessor, the Borrower, the Master Tenant and the Operator are each related to or affiliated with Drury Southwest, Inc., a Missouri corporation; and

WHEREAS, the Borrower has requested that the Issuer issue its revenue bonds for the purpose of financing the "Costs of the Project" and the "Costs of Issuance" (as such terms are described in the Loan Agreement described below) and loan the proceeds of such bonds to the Borrower for such purpose in the manner provided in the Act and such Loan Agreement; and

WHEREAS, the Project is located within the Empowerment Zone, and the Borrower has represented to the City and the Issuer that the Borrower and the Project will satisfy the requirements of an "enterprise zone facility" as set forth in Section 1394(b) of the Code, which include the requirements of an "enterprise zone business" as set forth in Section 1397B of the Code, as modified by Section 1394 of the Code (including but not limited to the requirement that during each year of the term that the Bonds are outstanding, at least 35% of the employees of the enterprise zone business, including the Project, will be residents of the Empowerment Zone) and "qualified zone property" as set forth in Section 1397D of the Code, as modified by Section 1394 of the Code; and

WHEREAS, on June 24, 2004, the EZ Governance Board adopted a resolution approving the Project for financing with tax-exempt Empowerment Zone Bonds and recommended that the Issuer, acting on the City's behalf, issue up to \$40,000,000 of tax-exempt Empowerment Zone Bonds to finance a portion of the Project and that the City Council of the City designate and reserve up to \$40,000,000 of the City's Empowerment Zone Bond Capacity to finance all or a portion of the Project with tax-exempt Empowerment Zone Bonds; and

WHEREAS, following the recommendation of the EZ Governance Board, on June 24, 2004, the City Council of the City adopted a resolution allocating up to \$40,000,000 of the City's Empowerment Zone Bond Capacity to finance the Project with tax-exempt Empowerment Zone Bonds; and

WHEREAS, the City has determined that the construction and operation of the Project will promote economic development and will stimulate business and commercial activity in the City and within the Empowerment Zone; and

WHEREAS, in lieu of the City issuing revenue bonds to finance the Project as permitted by Chapter 99 of the City Charter, the City has requested the Issuer to issue the revenue bonds on behalf of the City, and in so doing the Issuer will aid and act on behalf of the City to accomplish the public purpose of enhancing economic development in the City and the governmental purpose of issuing

revenue bonds to finance a portion of the Project as permitted by Section 431.101(a), Texas Transportation Code; and

WHEREAS, the Borrower has, pursuant to the Loan Agreement, agreed to make payments to the Issuer or its designee in amounts sufficient to pay debt service on the Bonds and to pay certain costs of administration and indemnification, if required, to hold the Issuer and the City harmless with respect to the issuance of the Bonds and the Project financed thereby; and

WHEREAS, the issuance of the Bonds will enable the Borrower to borrow funds at lower interest costs than would otherwise be available to the Borrower for the purpose of funding the Project to be financed with the proceeds of the Bonds;

WHEREAS, there have been presented to the Issuer proposed forms of each of the following:

1. The *Loan Agreement*, dated as of June 1, 2005 (the "Loan Agreement"), by and between the Issuer and the Borrower, including a promissory note from the Borrower to the Issuer in the principal amount of the Bonds;

2. The *Indenture of Trust*, dated as of June 1, 2005 (the "Indenture"), between the Issuer and U.S. Bank, N.A., as Trustee ("Trustee");

3. The *Underwriting Agreement* by and among the Issuer, the Borrower and Banc of America Securities LLC, as the Underwriter, to be dated as of the day of initial pricing of the Bonds by the Underwriter (the "Underwriting Agreement");

4. The *Tax Agreement*, dated as of June 1, 2005 (the "Tax Agreement"), by and among the Issuer, the Borrower and the "Operator" named therein; and

5. The *Official Statement* relating to the Bonds; and

WHEREAS, this Resolution, the Bonds, the Loan Agreement, the Indenture, the Underwriting Agreement, and the Tax Agreement are collectively referred to herein as the "Issuer Documents"; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; and

THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION THAT:

SECTION 1. APPROVAL OF ISSUER DOCUMENTS. The Board hereby approves the Issuer Documents in substantially the forms and substance presented to the Board, and the President or Vice President of the Issuer is hereby authorized and directed, for and on behalf of the Issuer, to date, sign, and otherwise execute the Issuer Documents, and the Secretary or any Assistant Secretary is authorized and directed, for and on behalf of the Issuer, to attest the Issuer Documents, and such officers are hereby authorized to deliver the Issuer Documents to the respective parties named therein. Upon execution by the parties thereto and delivery thereof, the Issuer Documents shall be binding upon the Issuer in accordance with the terms and provisions thereof.

SECTION 2. AUTHORIZATION TO ISSUE THE BONDS. The Bonds are authorized to be issued in an aggregate principal amount not to exceed \$35,000,000 (with the final aggregate principal amount to be set forth in the Indenture as approved and executed by the President of the Board), maturing on June 1, 2035, and bearing interest at the per annum rates, and being subject to redemption and tender, as determined and set forth in the Indenture. The Bonds are issued for the purpose of loaning the proceeds thereof to the Borrower for the purposes as described in the recitals of this Resolution. The Board hereby approves the Bonds in substantially the form and substance set forth in the Indenture. The President or Vice President and the Secretary or any Assistant Secretary are hereby authorized and directed, for and on behalf of the Issuer, to execute the Bonds or have their facsimile signatures placed upon the Bonds, and such officers are hereby authorized and directed to deliver the Bonds, and the seal of the Issuer is hereby authorized and directed to be affixed or placed in facsimile on the Bonds. The Bonds shall be issued, executed, authenticated and delivered in the form and manner, and shall be dated, shall and may be redeemed prior to maturity, and shall have all of the characteristics, as provided in the Indenture. The Bonds shall be issued, authenticated and delivered as provided in the Indenture, and the Bonds shall be issued initially as one fully registered bond, without coupons, numbered as set forth in the Indenture.

SECTION 3. SALE OF BONDS. The Bonds are hereby authorized to be sold and delivered in accordance with the provisions of the Underwriting Agreement at the purchase price set forth therein.

SECTION 4. APPROVAL OF OFFICIAL STATEMENT. The Board hereby approves the Official Statement in substantially the form and substance presented to the Board as it relates to the Issuer and the Bonds and further approves the distribution of the Official Statement by the Underwriter in connection with the sale of the Bonds.

SECTION 5. AUTHORIZATION TO APPROVE CHANGES. The President, Vice President and Secretary of the Board of Directors of the Issuer are hereby authorized to approve any changes made to the Issuer Documents and the Official Statement as it relates to the Issuer from the forms presented to and approved by the Board, such approval to be evidenced by the execution of the Issuer Documents, provided that such changes are not inconsistent with this Resolution.

SECTION 6. AUTHORIZATION TO APPROVE ADDITIONAL ACTIONS AND DOCUMENTS. All officers, employees, agents and representatives of the Issuer and its Board shall be and are hereby expressly authorized, empowered and directed from time to time, and at any time, to do and perform all such acts and things, and to execute and deliver in the name and under the official seal and on behalf of the Issuer all such instruments, whether or not herein mentioned (including any documents and agreements relating to an interest rate swap on the Bonds, if any), as may be necessary or desirable in order to carry out the terms and provisions of this Resolution and of the Bonds, as well as the terms and provisions of the Issuer Documents.

SECTION 7. AUTHORIZATION TO AUTHENTICATE BONDS AND DELIVER TRANSCRIPT TO THE ATTORNEY GENERAL. The President, Vice President, the Secretary and any Assistant Secretary each are individually hereby authorized to execute and deliver to the Trustee a written order of the Issuer for the authentication and delivery of the Bonds by the Trustee in accordance with the Indenture, and to deliver a transcript of proceedings to the Attorney General of the State of Texas, along with the initial Bond, which shall be delivered to the Comptroller of Public Accounts of the State of Texas for registration upon Attorney General approval.

SECTION 8. RESOLUTION IRREPEALABLE. After any of the Bonds are issued, this Resolution shall be and remain irrevocable until the Bonds or the interest thereon shall have been fully paid or provision for payment shall have been made pursuant to the Indenture.

SECTION 9. ENFORCEABILITY OF RESOLUTION. If any section, paragraph, clause, or provision of this Resolution shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution. In case any obligation of the Issuer authorized or established by this Resolution or the Bonds is held to be in violation of law as applied to any person or any circumstance, such obligation shall be deemed to be the obligation of the Issuer to the fullest extent permitted by law.

SECTION 10. INCORPORATION OF RECITALS. The Board of Directors hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the Board of Directors hereby incorporates such recitals as a part of this Resolution.

SECTION 11. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

[The remainder of this page intentionally left blank]

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE CITY OF SAN ANTONIO, TEXAS EMPOWERMENT ZONE DEVELOPMENT CORPORATION THIS 9TH DAY OF JUNE, 2005.



President, Board of Directors

Attest:



Secretary, Board of Directors

(Seal)

[EXECUTION PAGE TO BOND RESOLUTION]

Agenda Voting Results

Name: 5A.

Date: 06/09/05

Time: 04:23:36 PM

Vote Type: Multiple selection

Description: Public Hearing and Consideration of a Resolution by the City of San Antonio Texas Empowerment Zone Development Corporation authorizing the issuance of up to \$35,000,000.00 in Tax Exempt Empowerment Zone Revenue Bonds for the Alamo National Bank Building Redevelopment Project; authorizing the Interim City Manager to execute a Loan Agreement, an Indenture of Trust, a Tax Agreement, and an Underwriting Agreement; approving the form of an Official Statement; and approving other matters in connection therewith

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. McNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR		x		